

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 359 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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VIRCHAND MANSING DATANIYA

Versus

MANAGER, JUPITER TEXTILE MILLS

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Appearance:

MRS SANGEETA N PAHWA for Petitioner

MR SR GUPTA for Respondent No. 1

None present for other Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 22/09/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner, an employee of respondent No.1, filed this special civil application and challenge has been made to the order of the 9th Labour Court in Recovery Application No.604/90 dated 1-11-1991.

The learned counsel for the petitioner contended

that the Labour Court has committed serious illegality in rejecting the application of the petitioner filed by him under sec.33-C (2) of the I.D. Act, 1947. This application has been rejected by the Labour Court as it did not find any merit in any of the contentions raised. The petitioner claimed by that application the unemployment compensation. On attaining the age of superannuation as per his date of birth in the record, he was relieved from duties on 31st July, 1983. The petitioner earlier filed Case No.1196/83 to obtain the relief that the mill shall not relieve him on the ground of age limit, but that had been withdrawn. The dispute regarding the date of birth as well as the age of retirement cannot be the subject matter of adjudication in application under sec.33-C(2) of the I.D. Act, 1947. Still I have examined the matter on merits and from the petitioner's own document, annexure 'A' his date of birth is of November, 1935. The counsel for the petitioner is disputing this date of birth but that dispute does not stand to any merits. In this very document, the date of joining of the petitioner in service has been shown to be of 1942 and it is difficult to believe that the petitioner must have been given the appointment at the age of seven years. Even if we go by the normal age of appointment i.e. of 18 years then also the date of birth of petitioner of 1935 is not correct. From the document which has been filed by the respondent also the claim of the petitioner of the date of birth of 1935 does not stand to any logic.

In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.